

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

BRYAN M. R.,

Petitioner,

v.

CHARLES L. GREEN,

Respondent.

Civ. No. 19-8500 (KM)

MEMORANDUM AND ORDER

Petitioner, Bryan M. R.,¹ is an immigration detainee currently held at the Essex County Correctional Facility, in Newark, New Jersey. On March 13, 2019, acting by counsel, he filed in this Court a petition for writ of habeas corpus under 28 U.S.C. § 2241.

Petitioner challenges the propriety and duration of his present immigration detention.² Under Rule 4 of the Rules Governing § 2254 Cases (applied in this proceeding under Rule 1(b) of the Rules Governing § 2254 Cases), this Court has examined the petition and determined that dismissal without receiving an answer and the underlying record is not warranted.

Accordingly, IT IS this 25th day of March 2019

¹ Consistent with guidance regarding privacy concerns in social security and immigration cases by the Committee on Court Administration and Case Management of the Judicial Conference of the United States, petitioner is identified herein only by his first name and last initials.

² Petitioner, who is detained under 8 U.S.C. § 1226(a), indicates that he “has tried to request bond but has been unsuccessful.” He alleges that the presiding immigration judge, citing “an open municipal court case,” responded to Petitioner’s bond-hearing request by “indicat[ing] that she would be denying his request if [Petitioner] insisted on it.” Petitioner explains that his counsel then withdrew the bond request. (*See* DE 1 ¶ 22.) Assuming this was a waiver, it was not necessarily intended to operate for all time. The Petitioner has now been detained for eight months.

ORDERED that the Clerk shall serve copies of the petition (DE 1) and this memorandum and order upon respondent by regular mail, with all costs of service advanced by the United States; and it is further

ORDERED that the Clerk shall forward a copy of the petition (DE 1) and this memorandum and order to the Chief, Civil Division, United States Attorney's Office, at the following email address: USANJ-HabeasCases@usdoj.gov; and it is further

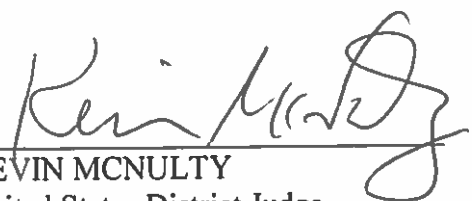
ORDERED that, within twenty-one (21) days after the entry of this memorandum and order, respondent shall file and serve an answer that (1) responds to the allegations and grounds in the petition and (2) includes all affirmative defenses respondent seeks to invoke; and it is further

ORDERED that respondent shall file and serve with the answer certified copies of all documents necessary to resolve petitioner's claim(s) and affirmative defenses; and it is further

ORDERED that within ten (10) days of receipt of the answer, petitioner may file a reply to the answer; and it is further

ORDERED that within seven (7) days of petitioner's release, by parole or otherwise, as well as any change in the basis for petitioner's immigration detention, respondent shall electronically file a written notice of the same with the Clerk.

BECAUSE THE ONLY AVAILABLE RELIEF IS LIKELY TO BE AN ORDER TO HOLD A BOND HEARING, THE GOVERNMENT IS URGED TO CONSIDER WHETHER IT WILL CONSENT, AND IF SO, TO DO SO PROMPTLY.


KEVIN MCNULTY
United States District Judge